

Requested by SENATE COMMITTEE ON JUDICIARY

**PROPOSED AMENDMENTS TO
SENATE BILL 722**

1 In line 2 of the printed bill, before the period insert “; creating new pro-
2 visions; amending ORS 697.692; and prescribing an effective date”.

3 Delete lines 4 through 7 and insert:

4 **“SECTION 1.** ORS 697.692 is amended to read:

5 **“697.692. (1) Subject to subsection (4) of this section,** a debt manage-
6 ment service provider may charge a consumer only the following fees:

7 **“(a)** An initial fee of not more than \$50.

8 **“(b)** A fee reasonably calculated to recover the costs that the debt man-
9 agement service provider incurs in providing an initial counseling session
10 or education class. The debt management service provider may charge the fee
11 described in this paragraph in advance, but the fee may not exceed \$50.

12 **“(c)** A monthly fee equivalent to 15 percent of the funds that the debt
13 management service provider receives from a consumer for payment to the
14 consumer’s creditors. The debt management service provider may charge the
15 fee described in this paragraph only if the debt management service provider
16 holds a consumer’s funds, directly or indirectly, on the consumer’s behalf.
17 The fee described in this paragraph may not exceed \$65 per month.

18 **“(d)** A fee equivalent to 15 percent of the amount of debt a consumer owes
19 to one or more creditors at the time the consumer signs the agreement de-
20 scribed in ORS 697.652 and places funds in a bank account that the consumer
21 establishes or maintains in the consumer’s own name with an insured insti-

1 tution, as defined in ORS 706.008, and designates specifically for making
2 disbursements in connection with a debt management service. The debt
3 management service provider may charge the fee described in this paragraph
4 only if the debt management service provider does not hold a consumer's
5 funds directly or indirectly. The debt management service provider may not
6 charge the fee described in this paragraph in amounts or installments that
7 exceed \$65 per month.

8 “(e) A fee equivalent to 7.5 percent of the difference between the principal
9 amount of the debt the consumer owed to the consumer's creditor at the time
10 the consumer signed the agreement described in ORS 697.652 and the amount
11 the consumer paid to the creditor to settle the debt, exclusive of fees the
12 consumer paid to the debt management service provider under paragraph (a),
13 (b) or (d) of this subsection. The debt management service provider may
14 charge the fee described in this paragraph only if the debt management ser-
15 vice provider obtains from the consumer's creditor a reduction in the prin-
16 cipal amount of the consumer's debt.

17 **“(f) A fee of not more than \$100 for a service in which the debt**
18 **management service provider improves or preserves, or offers to im-**
19 **prove or preserve, a consumer's credit record, credit history or credit**
20 **rating but does not conduct a budget analysis for the consumer, act**
21 **as a broker for another debt management service provider or other-**
22 **wise engage in any other activity that constitutes a debt management**
23 **service. The debt management service provider may charge more than**
24 **\$100 but not more than \$120 for the service if the Director of the De-**
25 **partment of Consumer and Business Services finds that the nature and**
26 **extent of the educational or counseling services the debt management**
27 **service provider offers warrant a larger fee.**

28 “(2) A debt management service provider may accept payment for a fee
29 described in subsection (1) of this section by means of:

30 “(a) A check, draft or similar paper instrument; or

1 “(b) A transfer of funds through an electronic terminal, telephonic in-
2 strument, computer or magnetic tape that transmits an order, instruction or
3 authorization to a financial institution to debit or credit an account.

4 **“(3)(a) A consumer may void a contract for debt management ser-
5 vices, and a debt management service provider shall return to the
6 consumer all sums the consumer paid to the debt management service
7 provider and reimburse the consumer for reasonable attorney fees the
8 consumer incurred in any action to enforce rights the consumer has
9 under this subsection, if the debt management service provider
10 charges the consumer more than the amounts set forth in this section.**

11 **“(b) A consumer may not waive any of the rights the consumer has
12 under this subsection, and any provision in any contract or other
13 agreement that purports to waive the consumer’s rights is void.**

14 **“(4) The director by rule may adjust the fees set forth in this sec-
15 tion to reflect changes in the U.S. City Average Consumer Price Index
16 for All Urban Consumers (All Items) as published by the Bureau of
17 Labor Statistics of the United States Department of Labor. In adjust-
18 ing fees, the director may consider whether changes in fees that other
19 states charge for similar services warrant a change in fees in this
20 state.**

21 **“SECTION 2. The amendments to ORS 697.692 by section 1 of this
22 2017 Act apply to debt management services for which a consumer
23 enters into a contract or other agreement on or after the operative
24 date specified in section 3 of this 2017 Act.**

25 **“SECTION 3. (1) The amendments to ORS 697.692 by section 1 of this
26 2017 Act become operative on January 1, 2018.**

27 **“(2) The Director of the Department of Consumer and Business
28 Services may adopt rules and take any other action before the opera-
29 tive date specified in subsection (1) of this section that is necessary
30 to enable the director, on and after the operative date specified in**

1 subsection (1) of this section, to exercise all of the duties, functions
2 and powers conferred on the director by the amendments to ORS
3 697.692 by section 1 of this 2017 Act.

4 “SECTION 4. This 2017 Act takes effect on the 91st day after the
5 date on which the 2017 regular session of the Seventy-ninth Legislative
6 Assembly adjourns sine die.”.

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